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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KIRBY SPENCER, individually and on behalf of all others similarly situated,)	CASE NO. 2:14-cv-01136-RFB-(PAL)
)	
Plaintiff,)	AT&T DIGITAL LIFE, INC.'S REQUEST
)	FOR JUDICIAL NOTICE IN SUPPORT OF
v.)	SECOND MOTION FOR SUMMARY
)	JUDGMENT
AT&T DIGITAL LIFE, INC., a foreign)	
corporation doing business in Nevada,)	
)	
Defendant.)	

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that Defendant AT&T Digital Life, Inc. ("AT&T") hereby
3 respectfully requests that the Court take judicial notice of the documents set forth below (together
4 with their contents) pursuant to Federal Rule of Evidence 201.

5 Rule 201 permits a court to take judicial notice of facts that are "not subject to reasonable
6 dispute in that [they are] either (1) generally known within the territorial jurisdiction of the trial
7 court or (2) capable of accurate and ready determination by resort to sources whose accuracy
8 cannot reasonably be questioned." Fed. R. Evid. 201(b). Judicial notice is mandatory if a court is
9 "requested by a party and supplied with the necessary information." Fed. R. Evid. 201(d).
10 Accordingly, AT&T respectfully requests that the Court take judicial notice of the following
11 documents cited in AT&T's concurrently-filed Second Motion for Summary Judgment:

12 **A. Federal Agency Document:** FCC document titled, "Consumer Guide: Unwanted
13 Telephone Marketing Calls" (Oct. 8, 2014), accessed from [http://www.fcc.gov/guides/unwanted-](http://www.fcc.gov/guides/unwanted-telephone-marketing-calls)
14 [telephone-marketing-calls](http://www.fcc.gov/guides/unwanted-telephone-marketing-calls) on December 5, 2014. A true and correct copy of this document is
15 attached as Exhibit A to this Request for Judicial Notice and also as Exhibit 11 to the Declaration
16 of Joel D. Smith In Support Of AT&T Digital Life, Inc.'s Second Motion For Summary
17 Judgment.

18 Public documents and reports of administrative agencies, including the FCC Consumer
19 Guide attached as Exhibit A, are proper subjects for judicial notice under Rule 201. *See*
20 *Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946, 952 n.2 (9th Cir. 2009) (citing FCC
21 Consumer Guide: Unwanted Telephone Marketing Calls); *Interstate Natural Gas Co. v. S. Cal.*
22 *Gas Co.*, 209 F.2d 380, 385 (9th Cir. 1953) ("We may take judicial notice of records and reports
23 of administrative bodies"); *U.S. ex rel. Calilung v. Ormat Indus., Ltd.*, 2015 WL 1321029 *8 (D.
24 Nev. March 24, 2015) (taking judicial notice of agency reports); *Ang v. Bimbo Bakeries USA,*
25 *Inc.*, 2013 WL 5407039 *9 n.10 (N.D. Cal. Sept. 25, 2013) (taking judicial notice of FDA
26 Compliance Policy Guide).

27 **B. Federal Agency Document:** June 18, 2015 FCC press release titled, "FCC
28

1 Strengthens Consumer Protections Against Unwanted Calls and Texts,” accessed from
 2 <https://www.fcc.gov/document/fcc-strengthens-consumer-protections-against-unwanted-calls->
 3 and-texts on September 29, 2015. A true and correct copy of this document is attached as Exhibit
 4 B to this Request for Judicial Notice and also as Exhibit 19 to the Declaration of Joel D. Smith In
 5 Support Of AT&T Digital Life, Inc.’s Second Motion For Summary Judgment.

6 Press releases issued by government agencies are proper subjects for judicial notice under
 7 Rule 201. *See Arce v. Douglas*, 793 F.3d 968, 975 n.3 (9th Cir. 2015) (taking judicial notice of
 8 press release issued by state superintendent of public schools); *Taleff v. Sw. Airlines Co.*, 554 Fed.
 9 Appx. 598, 599 n.1 (9th Cir. 2014) (taking judicial notice of Department of Justice press release);
 10 *Gustavson v. Mars, Inc.*, 2014 WL 2604774 at *3 n.1 (N.D. Cal. June 10, 2014) (taking judicial
 11 notice of FDA press release available on FDA website).

12 Dated: November 25, 2015

CROWELL & MORING, LLP

13 By: /s/ Joel D. Smith

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 15 Joel D. Smith
 16 Attorneys for Defendant
 17 AT&T Digital Life, Inc.
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CERTIFICATE OF SERVICE

I, Joel D. Smith, state:

My business address is 275 Battery Street, 23rd Floor, San Francisco, California 94111. I am over the age of eighteen years and not a party to this action.

On the date set forth below, I served via electronic service the foregoing document(s) described as:

**AT&T DIGITAL LIFE, INC.'S REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF SECOND MOTION FOR
SUMMARY JUDGMENT**

on the following person(s) in this action:

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DATED: November 25, 2015

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